

Applicants: Hendrik Sibolt Van Damme et al.
Serial No.: 10/516,473
Filed: November 30, 2004
page 9 of 12

REMARKS

Claims 1-32 were pending in the subject application. By this amendment, Claim 32 has been canceled without prejudice or disclaimer, and Claims 3-4, 6-9, 11, 13-17, 19-21 and 23-31 have been amended. Applicants maintain that the amendments do not raise an issue of new matter. Support for the amendments can be found at least in the previous version of the claims. Accordingly, entry of the amendments is respectfully requested.

Objection to the Claims

Claims 4-32 were objected to as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. The claims have herein above been amended to eliminate multiple dependent claims that depend on other multiple dependent claims, thereby obviating this objection.

Restriction Requirement

The Examiner required restriction to one of the following four Groups of inventions under 35 U.S.C. §121:

- I. Group I, Claims 1-25, drawn to a method of screening cellular responses;
- II. Group II, Claims 26-30, drawn to a microarray comprising a solid porous metallo-oxide substrate with oriented through-going channels and an array of detector molecules within the pores of said substrate;
- III. Group III, Claim 31, drawn to the use of a microarray; and
- IV. Group IV, Claim 32, drawn to a kit comprising a microarray.

In response to the restriction requirement, applicants hereby elect the invention identified by the Examiner as Group I, i.e., claims drawn to a method of screening cellular responses. Claims 26-31 have hereinabove been amended to be drawn to the subject matter of Claims 1-25. Accordingly, applicants request that amended Claims 26-31 be

Applicants: Hendrik Sibolt Van Damme et al.

Serial No.: 10/516,473

Filed: November 30, 2004

page 10 of 12

rejoined with Claims 1-25.

Election of Species Requirements

The Examiner required that applicants elect a single species from each of the following 4 categories to which the claims shall be restricted if no generic claim is finally held to be allowable:

- 1) cellular components (as described in Claim 13),
- 2) detector molecules (as described in Claim 14),
- 3) cellular responses (as described in Claim 15), and
- 4) molecule of interest (as described in Claim 16).

In reply, applicants make the following elections:

- 1) cellular components - microbial cells,
- 2) detector molecules - specific dyes,
- 3) cellular responses - growth inhibition, and
- 4) molecule of interest - small organic molecules including pharmaceutical molecules.

This election is made with traverse with respect to the election of cellular components. Applicants request that the Examiner reconsider and rejoin the two species microbial cells and mammalian cells. Applicants respectfully point out that if a search and examination of multiple groups can be made without serious burden on the Examiner, the Examiner must examine the application on the merits, even though it includes claims to independent or distinct inventions (MPEP §803). Applicants maintain that it would not place an undue burden on the Examiner to examine both microbial cells and mammalian cells. A search for one Group would likely identify art pertinent to another group.

Applicants: Hendrik Sibolt Van Damme et al.
Serial No.: 10/516,473
Filed: November 30, 2004
page 11 of 12

Accordingly, reconsideration and rejoinder of the two species microbial cells and mammalian cells are respectfully requested.

Applicants maintain that Claims 1-31 are readable on the elections.

Supplemental Information Disclosure Statement

This Supplemental Information Disclosure Statement is being filed to supplement the Information Disclosure Statement (IDS) filed on November 30, 2004 in connection with the above-identified application.

In accordance with the duty of disclosure under 37 C.F.R. §1.56, applicants would like to direct the Examiner's attention to the references that are both listed on the attached Form PTO/SB/08A-B (2 pages) and attached hereto. These documents were cited by the Japanese Patent Office in an Office Action issued on June 21, 2007 in connection with a counterpart application.

Applicants are submitting the subject Supplemental Information Disclosure Statement pursuant to 37 C.F.R. §1.97(b)(3) before the mailing of a first Office Action on the merits. Accordingly, no fee is deemed necessary in connection with the filing of this Information Disclosure Statement.

Declaration and Power of Attorney

Applicants submit hereto a Declaration (3 pages) and Power of Attorney (4 pages) in connection with the subject application.

Applicants: Hendrik Sibolt Van Damme et al.
Serial No.: 10/516,473
Filed: November 30, 2004
page 12 of 12

CONCLUSIONS

A check for \$120.00 is enclosed for the fee for a one month extension of time. No other fee is deemed necessary in connection with the submission of this response. However, if any fee is required to maintain the pendency of the subject application, authorization is hereby given to withdraw the amount of any such fee from Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicants
90 Park Avenue
New York, New York 10016
(212) 336-8000

Dated: August 2, 2007
New York, New York

By 
Alan D. Miller, Reg. No. 42,889